

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

WEDNESDAY, THE 1ST AUGUST 2007 / 10TH SRAVANA 1929

RP.No. 1050 of 2006()

AGAINST THE ORDER IN CRP.2464/1992 Dated 16/07/1999
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REVIEW PETITIONERS/RESPONDENTS

1. TALUK LAND BOARD, PERINTALMANNA
2. THE TAHSILDAR, PERINTALMANNA
3. STATE OF KERALA, REP. BY THE CHIEF SECRETARY TO GOVT.
SECRETARIATE, THIRUVANANTHAPURAM

BY GOVERNMENT PLEADER SMT. R.BINDU

RESPONDENTS: PETITIONER

K.V.KUNHIMOHAMMED, S/O. MOIDUTTY HAJI, MULLAKURISSI
PATTIKKAD

BY ADV. SRI.N.N.SUGUNAPALAN SR.
SRI.S.SUJIN

THIS REVIEW PETITION HAVING BEEN FINALLY HEARD
ON 01/08/2007, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

M.N.KRISHNAN, J.

**R.P.NO: 1050 OF 2006 IN
C.R.P.No.2464 OF 1992 C &
C.M.APPLN.969/06**

Dated this the 1st August, 2007.

O R D E R

This review petition is filed by the respondents in C.R.P.2464/92. The C.R.P was filed by the declarant against the order of the Taluk Land Board, Perintalmanna and this Court by its order dated 16.7.1999 dismissed the revision petition. With a delay of 2572 days an application for review is filed. At the outset I must like to say that the grounds alleged for condoning the delay is not at all satisfactory and in view of the decision of the Apex Court reported in Collector, Land Acquisition, Anantnag v. Mst. Katiji (AIR 1987 S.C.1353) a governmental claim cannot be differentiated from that of a private party. There must be reasonable explanation. Now the reason alleged is that the copy of the order was missing. It is only a reason for reason sake and a delay of almost eight years cannot be condoned so light heartedly.

2. Even then I am considering the case on merits as well. The C.R.P was preferred against the order of the Taluk Land Board with a request to the Taluk Land Board to measure the actual extent of the property available in

65/1A1 of Kizhattur Village. The Taluk Land Board took it as 22.61 acres which was said to be incorrect by the declarant. This Court, after considering the entire materials found that at no point of time the declarant has a case that the extent is not correct and since previous proceedings also had ended it should not allowed to reagitate the same and therefore dismissed the revision observing "he cannot be permitted to reopen the concluded issue". Now the learned counsel for the Government would contend that really an extent of 1.55 acres in Sy. No:65/5 of Kizhattur Village is omitted to be included in the ceiling case and it is encircled by the other property and therefore that has also to be taken into consideration for taking and distribution of lands. The case is of the year 1977. The matter has come to the High Court on two or three occasions. There was a specific contention raised by the declarant regarding the actual extent of Survey No:65/1A1. So the attention of the governmental authorities had been brought to the notice sufficiently in advance. But the authorities slept over the matter and when the actual taking possession of the land was to be done comes forward with the case that an extent of 1.55 acres in survey No:65/5 is also to be taken into account and at the same time they did not canvass for the position

that survey extent shown in 65/1A1 is incorrect. They cannot be allowed to blow hot and cold at the same time. It was their duty and responsibility to show the real extent of the property especially being a suo motu proceeding initiated by the Taluk Land Board. After a period of three decades one cannot allow the matter to be reagitated. Therefore, I do not find any grounds for review on merits as well. Therefore this petition is dismissed both on the ground of delay as well as on merits. It is made clear that whatever properties are available in 65/1A1 shall be taken possession of by the government for the purpose of distribution not exceeding the actual extent of that survey number.

M. N. KRISHNAN
Judge